

Akin Gump

STRAUSS HAUER & FELD LLP

DAVID M. ZENSKY

+1 212.872.1075/fax: +1 212.872.1002
dzensky@akingump.com

April 23, 2019

VIA ECF

The Honorable Denise L. Cote
United States District Court Judge
Southern District of New York
500 Pearl St.
New York, NY 10007-1312

RE: *In re Tribune Fraudulent Conveyance Litigation*, No. 11 MD 2296 (DLC)

Dear Judge Cote:

We are co-counsel to Plaintiff Marc S. Kirschner, Litigation Trustee for the Tribune Litigation Trust (the "Litigation Trustee").

In the Memorandum of Law in Support of Litigation Trustee's Motion to Amend [ECF No. 7818 at 25], we alerted the Court to the scheduled oral argument in the Sixth Circuit in *Buchwald Capital Advisors LLC et al. v. Sault Ste. Marie Tribe of Chippewa Indians et al.*, Nos. 18-1165, 18-1166. By order dated April 22, 2019, the Sixth Circuit vacated the bankruptcy court's grant of summary judgment for the defendants and remanded the litigation trustee's constructive fraudulent conveyance action to the bankruptcy court for reconsideration in accordance with *Merit Management Group, LP v. FTI Consulting, Inc.*, 138 S. Ct. 833 (2018).

For the Court's convenience, that order is attached hereto as Exhibit 1.

Respectfully submitted,

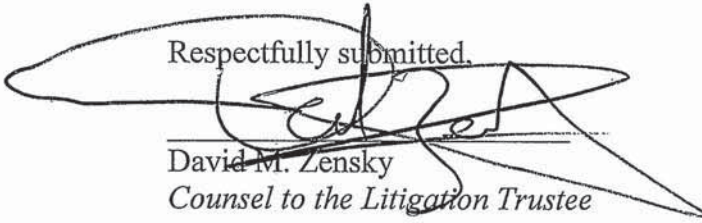

David M. Zensky
Counsel to the Litigation Trustee

EXHIBIT 1

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

File Name: 19a0199n.06

Case No. 18-1167**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT****FILED**

Apr 22, 2019

DEBORAH S. HUNT, Clerk

In re: GREEKTOWN HOLDINGS, LLC,

Debtor.

 BUCHWALD CAPITAL ADVISORS, LLC,
 solely in its capacity as Litigation Trustee to the
 Greektown Litigation Trust,

Plaintiff-Appellant,

v.

DIMITRIOS PAPAS, et al.,

Defendants-Appellee.

ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF MICHIGAN

ORDER

BEFORE: COLE, Chief Judge; STRANCH and READLER, Circuit Judges.

On February 27, 2018, two weeks after this appeal was filed, the United States Supreme Court decided *Merit Management Group, LP v. FTI Consulting, Inc.*, 138 S. Ct. 883 (2018), and in the process resolved a circuit split over the correct interpretation of Section 546(e) of the Bankruptcy Code—the safe harbor provision at issue in this case. *Merit Management* squarely addresses the dispositive issue in this case and abrogated the Sixth Circuit precedent on which both the bankruptcy court and district court relied, *see In re QSI Holdings, Inc.*, 571 F.3d 545 (6th Cir. 2009). Accordingly, we hereby vacate the district court’s judgment and remand the case to the

Case No. 18-1167, *In re Greentown Holdings*

bankruptcy court for reconsideration in accordance with the Supreme Court's recent decision in *Merit Management*. See *In re Markowitz*, 190 F.3d 455, 458 (6th Cir. 1999).

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written above a horizontal line.

Deborah S. Hunt, Clerk